



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable M. Riley Wyatt
Texas Prison Board
Brady Building
San Antonio, Texas

Dear Mr. Wyatt:

Opinion No. O-5245-A

Re: Supplementing Opinion No.
O-5245 in the matter of the
Committee on Penitentiaries
appointed by the Speaker of
the House, 48th Legislature.

We acknowledge receipt of your letter of November 16, 1943, requesting further advice specifically with respect to H. S. R. No. 311 of the recent Legislature, which is as follows:

"WHEREAS, It has been reported that there are various employees of the Texas Prison System who have been discharged without good cause; and

"WHEREAS, There have been numerous escapes of prisoners within the last few months, which it would seem was due to some laxness in the management; and

"WHEREAS, The Prison System is being managed at a financial loss to the State of Texas, at a time that it would seem that with proper management a profit could be shown; therefore, be it

"RESOLVED by the House of Representatives, That a committee consisting of five (5) members be appointed to make a thorough investigation of the Prison System and its management, with authority to summon witnesses and compel their attendance upon its sessions,

and take evidence concerning the conduct of any and all officials and employees of the Texas Prison System, and report said committee's findings, together with the substance of such evidence as in the committee's opinion might be pertinent to its findings, to the Forty-ninth Legislature.

"Said committee may hold its sessions at the Capitol or at the State Penitentiary at Huntsville, or at any of the Farms connected with the State Prison System, and may cause witnesses to appear at any place where said sessions are held, and shall be entitled to pay, from the fund hereinafter set aside, for all of its actual necessary traveling and other expenses.

"There is hereby appropriated out of the Contingent Expense Fund of the Forty-eighth Legislature the sum of Fifteen Hundred Dollars (\$1500) to meet the payment of necessary expenses incurred by said committee."

House Simple Resolution No. 311, it will be seen, is not so broad or comprehensive as Senate Resolution No. 4 considered in our original opinion No. 0-5245. The authority expressly conferred in the House Resolution is "to make a thorough investigation of the Prison System and its management, with authority to summon witnesses and compel their attendance upon its sessions, and take evidence concerning the conduct of any and all officials and employees of the Texas Prison System, and report said committee's findings, together with the substance of such evidence as in the committee's opinion might be pertinent to its findings, to the Forty-ninth Legislature."

Of course, this authority includes by implication any power legally incidental to the express powers mentioned.

We think an implied authority is given to the Committee to employ such stenographic, or other help and assistants, as would be reasonably necessary to the taking of evidence, and the reporting the committee's findings, but beyond this the committee would

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have no authority or legal right "to take with them a person who is not a member of either the committee or the legislature and bestow upon him the same rights and privileges" enjoyed by the committee. In other words, this committee, as pointed out in our original opinion, would have no power to delegate any portion of its powers or imposed duties upon any other person.

This answer is necessarily general as your inquiries are general. We are not advised of the specific fact or facts giving rise to your questions, and cannot, of course, speak otherwise than in general terms.

APPROVED NOV 19, 1943
/s/ Grover Sellers
FIRST ASSISTANT
ATTORNEY GENERAL

Very truly yours
ATTORNEY GENERAL OF TEXAS

By

/s/ Cecil Speer
Assistant

OS:MR

APPROVED OPINION
COMMITTEE
BY BWB
CHAIRMAN

OK
CWB

OS:gn